

REMARKS

Summary Of The Office Action & Formalities

Claims 1-13 and 16-20 are all the claims pending in the application. By this Amendment, Applicant is amending claim 19 and adding claim 21. No new matter is added.

Applicant thanks the Examiner for acknowledging the claim to foreign priority and for confirming that the certified copy of the priority document was received.

The abstract of the disclosure is objected to because of legal phraseology “comprising, said” as recited in lines 1-8.

Claims 19-20 are rejected under 35 U.S.C. § 112, second paragraph, for the reason set forth at page 2 of the Office Action. Applicant is amending claim 19 in a non-narrowing manner to overcome this rejection.

Claims 19 and 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, set forth in this Office Action. In view of Applicant’s amendment to claim 19, these claims are now believed to be allowable.

The prior art rejections are summarized as follows:

Claims 1-13 and 16-18 are rejected under 35 U.S.C. § 102(e) as being anticipated by Garcia et al. (US 6,698,627), apparently based on a provisional application filed on April 25, 2002.

Applicant respectfully traverses.

Claim Rejections - 35 U.S.C. § 102

1. Claims 1-13 And 16-18 In View Of Garcia et al. (US 6,698,627).

In rejecting claims 1-13 and 16-18 in view of Garcia et al. (US 6,698,627), the grounds of rejection state:

Garcia et al. disclose a fluid dispenser assembly as seen in Figure 1, which comprises a fluid dispenser having a wrapper (4) encasing the dispenser at least in part, the wrapper defining at least one application zone that contacts the dispenser as seen [in] Figure 1, wherein the wrapper comprises outer side edges (41,42) by which the assembly is held securely in a hand (col. 4, ll. 42-45), wherein the dispenser comprises a body (10) forming at least one substantially cylindrical segment, the segment defining an affixing zone that contacts the application zone of the wrapper as seen in Figure 1, and the dispenser further comprises a dispenser head (2) actuatable while holding the wrapper by the outer side edges, a protective cap (5), a pump (note: the manually squeezable action toward the reservoir's wall is considered to be the pump).

Office Action at page 3.

Garcia et al. discloses a fluid dispenser assembly comprising a dispenser 1, 2 and a packaging 4.

The dispenser has a squeezable reservoir 1 and a dispensing end-piece 2. Upon squeezing the reservoir, a mixture of fluid and air is expelled through a piece of porous material 3 adjacent to a dispensing orifice 25, located at the free end of a spout 20. The dispenser also has a fixing appendage 21 to which the packaging is fixed. This appendage may be integrally formed with the end-piece 2. The packaging 4 surrounds the reservoir and is fixed to the appendage, and not to the reservoir. The packaging is made of two sheets 41 and 42 secured together along their vertical sides and fixed onto the fixing zone 210 of the appendage 21.

To actuate such a dispenser, it is necessary to hold it between the thumb and the index finger at both sides of the packaging in contact with the squeezable reservoir. It is then possible to press on both sheets 41 and 42 so as to flatten the reservoir between them.

Therefore, claim 1 is distinguishable from the device disclosed in Garcia et al. on several grounds, including the following:

1- The packaging is not held by its outerside edges.

2- The spout 20 is not an actuatable dispenser head, because it is fixed.

3- The appendage 21 can not fairly be considered as a body for the dispenser. The body, for the person skilled in the art, is the reservoir. Indeed, claim 1 requires the body form at least one substantially cylindrical segment that defines an affixing zone in contact with the application zone of the wrapper.

4- The appendage is 21 is not a cylindrical segment, but a plate.

An important difference comes from the fact that the device disclosed in Garcia et al. has a reservoir that is actuated by squeezing it, while the dispenser recited in claim 1 has a dispenser head that is actuatable. This difference involves different ways of holding the assemblies. Moreover, the actuatable dispenser head is very different from a fixed spout.

New Claims

For additional claim coverage merited by the scope of the invention, Applicant is adding new claim 21.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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